

# **Affidavit-**

## **WHAT IS AN AFFIDAVIT?**

Merriam Webster defines an "affidavit" as a sworn statement delivered in writing before an authorized authority or magistrate, usually under oath or affirmation.

An affidavit is a written promise, and based on its Latin origins, it is connected to another kind of English promise. The Latin term affidavit, which means "he or she has made a commitment," is derived from the verb affidare, which means "to pledge," in the past tense. To put it another way, an affidavit is defined as "a written declaration signed by a person who implements, swears, verifies, and affirms under oath." Furthermore, this person affirms that the contents of the declaration are factual and truthful and that nothing has been left out or misrepresented. He also confirms the accuracy of the material.

An uncontested, legally-binding statement of a person's oath is called an affidavit. Since they provide a written account of the incident's facts, affidavits are an essential part of court processes since they help judges make decisions. They are also helpful for maintaining documentation.

## **PROVISIONS-**

In India, the provisions of the Code of Civil Procedure, 1908, on the subject of affidavits, are contained in Section 139 and Order XIX of the Code.

## **ESSENTIAL FEATURES OF AN AFFIDAVIT ARE AS FOLLOWS-**

- 1 A written affidavit is required.
- 2 The deponent must make a statement.
- 3 An affidavit's facts must be accurate to the best of the deponent's knowledge.
- 4 It must be sworn in under oath before an authorized authority or magistrate in order for it to be valid.
- 5 Never make an affidavit on someone else's behalf.

## **CONTENT IN THE AFFIDAVIT**

- Affidavits should only contain information that the deponent personally knows and can verify.
- According to Rule 3(1) of Order XIX of the CPC, affidavits must only contain information that the deponent can independently verify, with the exception of interlocutory petitions, in which case assertions of belief may be permitted as long as the reasons for the belief are given.
- According to Rule 3(2) of Order XIX of the CPC, the party filing the affidavit is responsible for covering the expenses of any papers that are copied or taken out of context, or that needlessly include hearsay or argumentative material, unless the court orders differently.

## **VALIDATION OF DECLARATION**

Affidavits need to be confirmed.

- Testing the veracity and authenticity of the deponent's claims and allegations is crucial for ensuring their legitimacy.

State of Affidavit

- Filing affidavits on behalf of the State requires accountability.  
A government spokesman should not accept contradictory affidavits submitted by the same officer, since they demonstrate a complete lack of respect for truthfulness.

## **POSSESSION OF AFFIDAVITS TO PROVE**

The authority to require affidavits to establish any point is outlined in Rule 1 of CPC Order XIX.

It says that any court, given adequate cause, may, at any time, direct that a witness's affidavit be read during the hearing or that any specific truth or facts be shown by affidavit, subject to reasonable restrictions determined by the court.

With the understanding that no order shall be granted permitting the testimony of such a witness to be delivered by affidavit in cases where the Court determines that any party genuinely wishes to present a witness for cross-examination and that the witness is able to produce.

## **THE PROCESS OF DRAFTING AN AFFIDAVIT-**

- Type the name of the court or tribunal where the affidavit will be filed at the top of the document, followed by the assigned case or suit number.
- List the names of the parties in brief. Mention “AFFIDAVIT” as the heading or title of the document.
- After saying “Do solemnly swear and declare as under,” provide the deponent's information (the person testifying as to the truthfulness of the claims he made in the main petition).
- This information should include the deponent's name, his father's name, his age, and his residential address.
- The deponent must declare that he or she is the plaintiff or defendant (as applicable) in the lawsuit for which the affidavit is being submitted in the first paragraph following the introduction and that he or she is fully aware of and conversant with the facts of the case and is qualified to testify regarding them.
- Mention in the second paragraph that the deponent’s attorney authored the petition or submission made in the petition and that the contents were read over in simple English with a comprehensive explanation given to the deponent, as well as the ramifications of the same.
- Give a brief summary of the lawsuit's specifics or the deponent's submission. One can say that "the contents of the petition are not being reproduced here for the sake of brevity and one shall treat the same as a part of this affidavit" if the information is contained in the main petition and does not need to be repeated in the affidavit.
- Lastly, include the following sentence: "To the best of the deponent's knowledge, the contents of the affidavit are true and correct, and nothing material has been withheld." This is followed by a section about verification that reads, "This is the deponent's true and correct declaration."

## Sample affidavit

1 If ID proof has a single name for the applicant.

I \_\_\_\_ (Applicant Name as per id proof), residing at \_\_\_\_\_ (Address as per address proof) do solemnly affirm and stated as under:

I am \_\_\_\_\_ and my name \_\_\_\_\_, appearing on the enclosed ID proof, is a single name. My father's name is \_\_\_\_\_. For applying my DIN application, I am mentioning my father's name "\_\_\_\_\_" as my last name, as this is a mandatory requirement for applying DIN. Both names denote one and the same person.

I solemnly declare that the information in this affidavit is accurate to the best of my knowledge and belief, that it contains no false information, and that it contains nothing to be concealed.

2 Affidavit for name change

I Mr/Ms \_\_\_\_\_ S/o/D/o \_\_\_\_\_, aged around \_\_\_\_\_ years, resident of \_\_\_\_\_, do hereby solemnly affirm and declare as under:

That, my name as per the records in my educational institution is \_\_\_\_\_ (ABC)

That, by the virtue of this affidavit, I changed my name as \_\_\_\_\_ on (date of change of name).

Currently, all the records have my changed name \_\_\_\_\_.

That, I shall at all times, in all dealings and proceedings, sign the name \_\_\_\_\_ as my name, thereby substituting my former name.

I am getting a public notice published to this effect in the newspaper.

Also, I state that (earlier name) and that (present name) are the names of the same person, and that is myself.

This declaration is hereby executed and submitted to the concerned authorities to accomplish the change of name.

I hereby state that whatever is stated herein is true to the best of my knowledge.

Solemnly affirmed at \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_ 20)

(Signature of the Applicant).

Deponent